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APPLICATION NO. FILING DATE FIRST NAMED INVENTOR ATTORNEY DOCKET NO. 09/531,266 03/20/00 DUNICAN L PM 258100 **EXAMINER** HM22/0914 FILLS BURY WINTHROP 1100 NEW YORK AVENUE, N.W. STEADMAN, D 9TH FLOOR ART UNIT PAPER NUMBER WASHINGTON DC 20005 1652 DATE MAILED: 09/14/01

Please find below and/or attached an Office communication concerning this application or

Commissioner of Patents and Trademarks

Office Action Summary Op/531,266		Application No.	Applicant(s)	
Examiner David J. Steadman 1652		09/531.266		
Period for Reply A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE of this communication appears on the cover sheet with the correspondence address Period for Reply A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION. - Edencision of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be limitely filed after St. (a) MONTH'S from the provisions of 37 CFR 1.136(b). In no event, however, may a reply be limitely filed after St. (a) MONTH'S from the maining date of the communication. - If IVO period for reply is specified attack the maining date of the communication If IVO period for reply is specified attack the maining date of this communication Pallists for grow Within the set of extended period for reply will, by statistic, cause the application for some ARABADONES (St. 91.5, 61.3). Status 1)	Office Action Summary			
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DETAILED ACTION

Status of the Application

Claims 1-16 are pending in the application.

Applicants amendment to the specification in Paper Nos. 2 and 6 and amendment to the claims in Paper No. 2 are acknowledged.

Election/Restrictions

- 1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - Claim(s) 1-7, drawn to a polynucleotides and a host cell comprising said polynucleotides, classified in class 435, subclass 252.32.
 - II. Claim(s) 8-14, drawn to methods for the production of amino acids, classified in class 435, subclass 106.
 - III. Claim(s) 15 and 16, drawn to methods of using polynucleotide sequences for hybridization probes, class 435, subclass 6.
- 3. The inventions are distinct, each from the other because:

The host cell Group I and the methods of Groups II and III are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product (MPEP § 806.05(h)). In the instant case the host cell of Group I can be used for protein expression or plasmid propagation and amino acids can be chemically synthesized.

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The methods of Groups II and III are independent as they comprise different steps and yield different results.

4. Because the inventions listed as Groups I-III are distinct for the reasons given above, have separate classifications and separate search is required for each of Groups I-III, restriction for examination purposes as indicated is proper. "For purposes of the initial requirement, a serious burden on the examiner may be *prima facie* shown if the examiner shows by appropriate explanation either separate classification, separate status in the art, or a different field of search as defined in MPEP 808.02" (see MPEP 803). Each of the inventions listed as Groups I-III requires divergent literature (patent and non-patent) and sequence searches.

Conclusion

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a petition under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David Steadman, whose telephone number is (703) 308-3934. The Examiner can normally be reached Monday-Friday from 7:30 am to 2:00 pm and from 3:30 pm to 5:30 pm. If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's

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supervisor, Ponnathapura Achutamurthy, can be reached at (703) 308-3804. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Art Unit receptionist whose telephone number is (703) 308-0196.

David J. Steadman, Ph.D.

REBECCA E. PROUTY PRIMARY EXAMINER

GROUP 1800

16W